ATTORNEY-GENERAL v. WONG HONG TOY

[O.C.J. (Sinnathuray J.) February 4, 1983]

[Singapore – Originating Summons No. 577 of 1982]

Criminal Law & Procedure – Contempt of Court – Political party – "Letter of appeal" from party to public for donations – Contents read as a whole – Letter imputing party unfairly treated by Courts – Courts drawn into political arena – Imputations which undermine public confidence.

This was an application by the Attorney-General, pursuant to leave granted by the High Court, for an Order of Committal against the respondent for contempt of court. The offence alleged against the respondent was that he had published a letter, "Appeal from the Workers' Party" (letter of appeal) in which were matters calculated to bring the Honourable Mr. Justice Chua and/or the Judiciary in Singapore into contempt, or to lower his or its authority.

The letter was addressed to "Dear Member/Friend and Supporter" and it appealed to the public at large for donations to the Workers' Party. It referred to 2 defamation actions brought by the Workers' Party against Mr. Tay Boon Too and the Attorney-General in his representative capacity representing the Department of Broadcasting. Mr. Tay was sued for damages for slander contained in a speech made by him at a rally held in the 1972 general elections. The claim against the Attorney-General was for damages for libel for publication by radio broadcast of that speech of Mr. Tay. The said claim was dismissed by Chua J. and costs were given in favour of Mr. Tay and the Attorney-General. The appeal against Chua J.'s decision was dismissed by the Court of Appeal. On June 11, 1982 pursuant to an Order of Court, the Official Receiver was appointed to collect from the Workers' Party the costs and interests payable to Mr. Tay. Subsequently, a meeting was convened at the Chambers of the Official Receiver attended by the respondent and officials of his party. The respondent then wrote to the Official Receiver a letter which stated that "it is the Party's intention to pay the costs due both to Mr. Tay Boon Too and the Attorney-General so soon as the Party can raise monies". Sometime between July 13, 1982 and July 20, 1982, the Official Receiver received an undated "letter of appeal".

Held, allowing the application: (1) the High Court will exercise its summary jurisdiction to punish those who scandalise the court in words or acts done calculated to bring into contempt the future administration of justice in the courts. This summary jurisdiction will be exercised with the greatest of care;

(2) a person charged with contempt of court cannot be heard to say that he did not intend to commit contempt, if in fact he did commit the offence;

(3) the letter of appeal must be considered as a whole. No mention was made of the real issue canvassed at the hearings. By suppressing the true issues, the statements made in the letter had distorted the issues that were before the courts. They were therefore untruthful statements of facts and the comments could not be fair comment;

(4) in the letter of appeal were matters calculated to bring the Judiciary in Singapore into contempt and published at the expense of lowering the authority of the courts;

(5) what is objectionable in the highest degree was that the respondent had drawn the courts into the political arena and used them to further the Party's political ends. It is this conduct of the respondent that should be deplored and condemned;

(6) the respondent must therefore pay a fine of $1,500 to be paid within 7 days. If not, an Order of Committal would be issued. The respondent was also liable to pay costs to the Attorney-General.

Cases referred to:

(1) *Re Abdul Aziz's Application* [1962] M.L.J. 64.
(2) *Attorney-General* v. *Pang Cheng Lian & Ors.* [1975] 1 M.L.J. 69.
(3) *McLeod* v. *St. Aubyn* [1899] A.C. 549.
(4) *R.* v. *Gray* [1900] 2 Q.B. 36.
(5) *Ambard* v. *The Attorney-General of Trinidad and Tobago* [1936] 1 All E.R. 704 @ 709. P.C.
(6) *R.* v. *Brett* [1950] Vict. L.R.226.
(7) *R.* v. *Odhams Press Ltd.* [1957] 1 Q.B. 73.
(8) *R.* v. *Murphy* (1969) 4 D.L.R. (3d) 289.
(9) *R.* v. *Fletcher & Anor.* (1935) 52 C.L.R. 248.
(10) *R.* v. *Dunbabin & Anor.* (1935) 53 C.L.R. 434.

ORIGINATING SUMMONS.

Tan Boon Teik, Attorney-General in person, *Glenn Knight* (Deputy Public Prosecutor) with him.

Karpal Singh (*Subhas Anandan* with him) for the respondent.

Cur. Adv. Vult.

Sinnathuray J.: This is an application by the Attorney-General, pursuant to leave granted by the High Court, for an Order of Committal against the respondent, Mr. Wong Hong Toy @ Wong Tat for contempt of court. The offence alleged against the respondent is that he had brought into existence and published a letter titled "Appeal from the Workers' Party" ("the letter" or "letter of appeal") in which are matters calculated to bring the Honourable Mr. Justice Chua and/or the Judiciary in Singapore into contempt, or to lower his or its authority.

The letter of appeal must of course be considered as a whole, but let me set out here insofar as this application is concerned what I consider to be the material parts of the letter. The letter addressed to "Dear Member/Friend and Supporter" is in fact an appeal to the public at large for donations to the Workers' Party.

In the opening paragraphs of the letter, the public is told that the Official Receiver has been appointed by the High Court to collect from the Workers' Party the costs and interests payable to

Mr. Tay Boon Too, a former Member of Parliament of the People's Action Party. One reads that the Attorney-General too has written to the Official Receiver to collect the costs "due to the Government from the Party".

In paragraphs 4 and 5 one is told:

"These costs were ordered against the Party in the action brought by the Party against Mr Tay Boon Too and the then Department of Radio and Broadcasting over Mr. Tay Boon Too's statement at an election rally in the 1972 general elections that the Workers' Party had received $600,000.00 from Malaysia. Mr. Tay's statement was broadcast over the radio in all the four languages. This was completely untrue and Mr Tay Boon Too did not seek to prove in the court that his statement was true.

The court however dismissed the Workers' Party's actions against Mr. Tay and the Government and ordered the Party to pay their costs. The Party appealed to the Court of Appeal but the appeal was also dismissed and the Party was ordered to pay the costs of the appeal. It is for the payment of these costs that the Official Receiver has been appointed."

The appeal "in this hour of need" is then elaborated as follows:

"The Party will not be able to carry on with its work of providing an alternative government for our people if these costs are not paid. We therefore appeal to all Singaporeans who believe that there should be more than one political Party in Parliament to help us in our struggle to bring this about."

Before telling the reader of the letter where further information may be obtained and requesting that all monies be paid to the Official Receiver, the letter concludes:

"We remain confident that our friends and supporters all over Singapore will help us now in our struggle for them to establish Parliamentary democracy in this country of ours.

Some background facts relating to the letter of appeal are useful.

The two defamation actions referred to in the letter were brought by the Workers' Party against Mr. Tay Boon Too and the Attorney-General in his representative capacity representing the Department of Broadcasting. Mr. Tay was sued for damages for slander contained in a speech made by him at a rally held in the 1972 general elections. The claim against the Attorney-General was for damages for libel for publication by radio broadcast of that speech of Mr. Tay.

The two actions were consolidated and tried by Chua J. in October 1974. The main issues contested at the trial were (1) publication, whether Mr. Tay had uttered the words complained of by the Workers' Party; (2) if publication was proved whether the words were capable of a defamatory meaning; (3) justification; and (4) qualified privilege. In a reserved judgment, delivered in November 1974, Chua J. dismissed the claim against Mr. Tay on the ground that the Workers' Party had not proved publication. The case against the Attorney-General was dismissed on the ground that the broadcast was made on a privileged occasion. Costs were given in favour of Mr. Tay and the Attorney-General.

In May 1975, the appeal by the Workers' Party to the Court of Appeal was dismissed with costs. The court found no merit whatsoever in the submission for the Workers' Party that the publication of the words complained of had been proved. The appeal against the Attorney-General was dismissed on the ground referred to by Chua J. in *obiter*, that the words complained of by the Workers' Party were not defamatory. There was no further appeal.

The costs payable by the Workers' Party to Mr. Tay and the Attorney-General were taxed. Besides the sum of "about $25,000" referred to in the letter of appeal due to Mr. Tay, there is about the same amount of costs and interest still due and payable by the Workers' Party to the Attorney-General.

On June 11, 1982, pursuant to an order of the High Court, the Official Receiver was appointed to collect from the Workers' Party the costs and interests payable to Mr. Tay. In his affidavit, the Official Receiver gives an account of the subsequent events.

On June 16, 1982, there was a meeting in the Chambers of the Official Receiver, attended by the Chairman of the Workers' Party, the respondent, the Secretary-General, Mr. J.B. Jeyaretnam, and the Treasurer, Mr. A. Balakrishnan. After the meeting, on June 22, 1982 the respondent wrote to the Official Receiver on the detailed terms of the agreement reached at the meeting, *inter alia*, "that it is the Party's intention to pay the costs due both to Mr. Tay Boon Too and the Attorney-General so soon as the Party can raise the monies".

Then, sometime after July 13 and prior to July 20, 1982, the Official Receiver received this undated letter of appeal. As I have said, it urged members of the public to send donations to the Party to the

office of the Official Receiver. The Official Receiver however disapproved the contents of the letter. By letters dated July 20 and 26, he dissociated himself from the letter. In his second letter he expressed the view that references in the letter of appeal to the defamation actions would in all probability amount to contempt of court.

Next, I turn to the affidavit of the learned Attorney-General. In it are his reasons as to why the letter of appeal is in clear contempt of court. Paragraphs 4 and 5 of the letter, he says, grossly misrepresent the real issues in the defamation actions. To say in the letter that the only issue in the trial before Chua J. was whether the statement of Mr. Tay at the election rally was untrue, to say that Mr. Tay did not at the trial seek to prove that the statement is true, and to say, however the court dismissed the Workers' Party's action against Mr. Tay and the Government suggest to members of the public that a totally indefensible case was dismissed by the court. The use of the word "however" suggests a lack of impartiality and bias against the Workers' Party in favour of Mr. Tay and the Attorney-General or that the court was guilty of a wrongdoing in dismissing the just claims of the Workers' Party. The deliberate use of the word "Government" suggests that the court was acting otherwise than impartially and biased in favour of the Government or was guilty of a wrongdoing because of that. The learned Attorney-General submits that anyone who reads the letter would conclude that when the Government is party to an action, the Judge or the Courts in Singapore would rule against the party making a claim against the Government. This would lead citizens and others who have recourse to the courts to question the integrity and impartiality of the Courts in Singapore. He says that the letter of appeal to the public for funds is at the expense of lowering the authority of the courts and to bring them into contempt. The words were chosen, he says, with care and deliberation to provoke and excite dissatisfaction in the minds of the public against the courts.

The respondent, in his affidavit filed the day before the hearing of the application, admits that the Workers' Party of which he is Chairman published the letter of appeal. He says that "the sole purpose" of the letter was for "raising funds from members of the public willing to pay the Workers' Party's legal debts" to Mr. Tay and the Government. He denies that the letter of appeal or any part thereof conveys or was intended to convey the several imputations that are attributed to the letter by the learned Attorney-General. He denies that there was any intention whatsoever to interfere with the administration of justice or to bring Chua J. or the Courts in Singapore into contempt or to lower his or its authority. His explanations for paragraphs 4 and 5 of the letter are in paragraphs 6 to 10 of his affidavit. They state:

> "6. It was thought necessary that the Party should explain in the said "letter of appeal" to the persons to whom the appeal was directed how the costs came to be incurred by the Party. Some account of the nature of the proceedings therefor had to be given but it was made abundantly clear to the Party that the recipients of the said "letter of appeal" should be left in no doubt at all that the Party did not receive the $600,000.00 or any part thereof and that Mr. Tay Boon Too himself did not at the trial seek as the learned Trial Judge observed in his judgment "to justify the statement that the Plaintiff (The Workers' Party) received $600,000.00 from abroad." It was thought that it was not enough for the Party alone to deny it and that the public should be told that Mr. Tay Boon Too himself did not try to maintain the allegation in court.
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> 7. It was clear to the Party that if the recipients of the said "letter of appeal" entertained any doubt whether the Party had received any monies they would be reluctant to respond to the appeal.
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> 8. It was for this reason and this reason alone that the two sentences in paragraph 4 of which complaint is now made were included.
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> 9. Paragraph 5 of the said letter of appeal merely set out the result of the action without saying anything more.
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> 10. It was not thought necessary to burden the recipients with all the issues that arose at the trial. It was decided to keep the appeal as simple as possible so that it would be readily understood.

The respondent contends that by the use of the word "however" the letter of appeal "was merely setting out the final result of the case". The respondent denies that by the use of the word "Government", there was any sinister motive or that the word was deliberately used to suggest that the court was biased in favour of the Government or guilty of a wrong-doing when it dismissed the defamation actions of the Party. He submits that the learned Attorney-General is straining the language of paragraph 4 and 5 to find contempt where there is none. The letter of appeal, he says, "was couched in sober and temperate language solely designed to set out the salient facts necessary for the appeal".

Finally, the respondent points out that although 100,000 letters of appeal were printed, only 2,000 to 3,000 have been distributed to the public. And, although the letter was carried in the Party's newspaper, after these proceedings were served on him, on September 25, 1982 the

Party caused the letter of appeal printed in the newspaper to be blacked out and in particular the words complained of by the Attorney-General were obliterated so as to be no longer legible.

Now, before I consider the grave issue of whether on the facts the respondent is guilty of contempt of court, it is convenient that I first dispose of the legal argument raised at the hearing.

Our law of contempt of court is based on the common law of England which "has developed over the centuries as a means whereby the courts may act to prevent or punish conduct which tends to obstruct, prejudice or abuse the administration of justice either in relation to a particular case or generally." (See: Report of the Committee on Contempt of Court, Cmnd. 5794 dated May 24, 1974.)

There have been very few cases of contempt in our courts. I have found only two reported cases in the last 20 years: *Re Abdul Aziz's Application*[1] and *Attorney-General* v. *Pang Cheng Lian & Ors.*[2] In the latter case, the learned Chief Justice examined the foundation of the jurisdiction which this court exercises in one class of contempt described even now in "the archaic title" scandalising the court. In that case it was not contended by any of the respondents that the publication of the offending article did not amount to a contempt of court.

In these proceedings however it is contended by Mr. Karpal Singh for the respondent that contempt of court of scandalising a court or a Judge is now obsolete. Counsel relies on the dictum of Lord Morris who, in delivering the judgment of the Privy Council in *McLeod* v. *St. Aubyn*[3] at page 561 said that "Committals for contempt of court by scandalising the court itself have become obsolete in this country". But this observation of Lord Morris was, in the words of Lord, Atkin, "sadly disproved the next year" in England in *R.* v. *Gray*[4] (See: *Ambard* v. *The Attorney-General of Trinidad and Tobago*[5]).

In *Pang Cheng Lian's case, supra,* the learned Chief Justice has at page 71 referred to the material passage of the judgment of Lord Russell of Killowen C.J. in *Gray's case* that I need not repeat the whole of it here. It is sufficient to say that in *Gray's case,* in holding that the publication in a newspaper article of personal scurrilous abuse of a judge as a judge is a contempt of court, Lord Russell said at page 40:

> "Any act done or writing published calculated to bring a court or a judge of the court into contempt, or to lower his authority, is a contempt of court ... Further, any act done or writing published calculated to obstruct or interfere with the due course of justice ... is a contempt of court."

So, under scandalising the court what is prohibited is not just only scurrilous abuse of a Judge as a Judge or of a court, but also attacks upon the integrity or impartiality of a Judge or Court. There is no doubt in my mind that this class of contempt still exists in Singapore and, the High Court will exercise its jurisdiction where the circumstances demand its action, when proceedings are instituted by the Attorney-General.

Next, there is the submission for the respondent founded on his affidavit that in making and publishing the letter of appeal there was no intention to interfere with the administration of justice or to bring Chua J., the trial Judge in the defamation actions, or the Judiciary into contempt or to lower his or its authority. The submission is that as the two defamation cases were decided almost 8 years ago remarks about them in the letter of appeal now cannot be calculated to interfere with the course of justice. This submission covers two principles of law relating to contempt. One is whether intention is an element of the offence of contempt, and the other relates to when a person can be found guilty of scandalising the court or a Judge.

Taking the second one first, it has long been settled that the offence of scandalising the court can be committed after the termination of the judicial proceedings. *Pang Cheng Lian's case* was after Chua J. had given judgment and the notice of appeal had not yet been filed. I however go further to say that because this class of contempt is concerned with the protection of the administration of justice, especially the preservation of public confidence in the honesty and impartiality of the courts, there need not even be any proceedings pending in the courts to commit contempt of scandalising the court. The reported cases in England as well as in other Commonwealth countries referred to at the hearing bear out this proposition. By way of illustration I refer to *R.* v. *Brett*[6] an Australian case, where the respondent was called upon to show cause why he should not be committed for contempt for publishing in his newspaper an article criticising the appointment of a Judge to the Supreme Court of Victoria. In my judgment our High Court will exercise its summary

jurisdiction to punish those who scandalise the court in words or acts done calculated to bring into contempt the future administration of justice in our courts. This summary jurisdiction will of course be exercised with the greatest of care.

On the claim of the respondent that it was not his intention to interfere with the administration of justice, the question is whether intention is a necessary element of contempt. The leading English case on this subject is *R.* v. *Odhams Press Ltd*[7]. Lord Goddard C.J. who delivered the judgment of the Divisional Court had this to say:

"[The] cases clearly show that lack of intention or knowledge is no excuse, though it may have a great bearing on the punishment which the court will inflict and, in our opinion, they dispose of the argument that *mens rea* must be present to constitute a contempt of which the court will take cognizance and punish.

The test is whether the matter complained of is calculated to interfere with the course of justice, not whether the authors and printers intended that result."

This principle of law has been applied in other jurisdictions in the Commonwealth. For the present purpose it is enough that I refer to a Canadian case, *R.* v. *Murphy*[8], a decision of the Appeal Division of the New Brunswick Supreme Court. At the hearing before me the learned Attorney-General adopted the headnote of the case as part of his submission. For my purpose, I paraphrase the headnote as follows:

The question to be determined on the contempt charge arising out of the letter of appeal is not the effect the respondent intended but the effect the letter itself is calculated to have. Where the effect of the letter would be to bring the particular Judge and the Courts themselves into contempt the respondent is guilty of contempt in scandalizing the Courts or the Judge.

So, a person charged with contempt of court cannot be heard to say that he did not intend to commit contempt, if in fact he did commit the offence.

Another submission of Mr. Karpal Singh is that paragraphs 4 and 5 of the letter of appeal are "if at all" criticism. There is a short answer on the facts but as the point has been taken let me state when criticism is a defence to a contempt charge. It is stated in *Halsbury's* Laws of England that "criticism of a judge's conduct or of the conduct of a court, even if strongly worded, is not a contempt provided that the criticism is fair, temperate and made in good faith and is not directed to the personal character of a judge or to the impartiality of a judge or court" (see: Fourth Edition, Volume 9, paragraph 27 at page 21.) On this subject, there is the celebrated judgment of Lord Atkin in *Ambard's case, supra.* At page 709, he said:

"But whether the authority and position of an individual judge or the due administration of justice is concerned, no wrong is committed by any member of the public who exercises the ordinary right of criticising in good faith in private or public, the public act done in the seat of justice. The path of criticism is a public way: the wrong headed are permitted to err therein: provided that members of the public abstain from imputing improper motives to those taking part in the administration of justice, and are genuinely exercising a right of criticism and not acting in malice or attempting to impair the administration of justice, they are immune. Justice is not a cloistered virtue: she must be allowed to suffer the scrutiny and respectful even though outspoken comments of ordinary men."

These being the principles to be applied to criticism on a contempt charge, the question I ask myself now is: in making and publishing paragraphs 4 and 5 of the letter of appeal was the respondent exercising his right of criticism of the decisions of the courts in the two defamation actions?

The answer is in the affidavit of the respondent. He has said that the sole purpose of the letter was to appeal to the public for funds to pay the Workers' Party's outstanding costs. In paragraph 17, he said:

"In stating "The court however dismissed the Workers' Party's action ..." the said "letter of appeal" was merely setting out the final result of the case ... There was not even the slightest criticism of the Judgment of the court.

And in paragraph 18, he said:

"Even though the Party did not agree with the decision of the Honourable Mr Justice Chua, we refrained from saying so in the said appeal."

Clearly, on this evidence, it is not the respondent's stand that in the letter of appeal he was exercising his ordinary right of criticism. According to him, as stated above, and in his explanations of paragraphs 4 and 5 of the letter which I have set out earlier, he was making positive statements of facts; he was not commenting on them; he was not criticising them. Therefore there is no foundation for the submission cautiously put forward by Mr. Karpal Singh that the complaints made of matters in paragraphs 4 and 5 of the letter are "if at all" criticism.

But, even if the respondent had not wanted to criticise, can it be said that, objectively considered, the matters complained of by the learned Attorney-General in the letter of appeal are fair comments made without improper motive and not directed to the impartiality of the trial Judge in the High Court and of the Court of Appeal? On this subject, the learned Attorney-General has drawn my attention to reported cases in Australia where the courts have condemned misrepresentation of facts or judgments which lead to unfair comments (which might have been justifiable had the facts or judgments been correctly stated) as exceeding the bounds of accepted criticisms. In *R.* v. *Fletcher & Anor.*[9] where the editor and proprietor of a newspaper were ordered to appear before the High Court on a motion to commit them to prison for contempt, Evatt J. at page 257 specifically adverted to the question of criticism and said:

"Fair criticism of the decision of the court is not only lawful but regarded as being for the public good; *but the facts forming the basis of the* criticism *must be accurately stated,* and the criticism must be fair and not distorted by malice." *(Emphasis mine)*

At page 258 Evatt J. continued:

"The facts ... show clearly that the respondents as publishers ... exceeded the limits of fair criticism. The respondents failed to publish to their readers a fair or adequate summary of the reasons of the court ..."

In *R.* v. *Brett, supra,* O'Bryan J. at page 228 referred to "criticism which is likely to bring the court or the administration of the law into disrepute, or to lower the authority of the court, or to weaken the spirit of obedience to the law so as to constitute a contempt of court" and posed the question at page 229:

"What, then, are the limits of criticism and comment in this area, and when does hostile criticism become contempt of court?

It is clear that an untruthful statement of facts upon which the comment is based may vitiate that which otherwise might be considered "fair" and justifiable. So, also, the motive of the writer is an important element."

This appropriately brings me to consider the merits of the application of whether the respondent is guilty of contempt of court.

I have already set out what the issues were in the High Court and the Court of Appeal. In the High Court, Chua J. held that the Workers' Party had not proved publication. The Court of Appeal confirmed it. In the appeal affecting the Attorney-General, significantly the ground of appeal alleged by the Workers' Party was "that the trial judge erred in holding that the words complained of were not defamatory". On this, the court said:

"Counsel in addressing the court on this ground of appeal ... submitted, without distinguishing between the words alleged to have been said by [Mr. Tay] at the election rally and the broadcast words, that the broadcast words were defamatory."

The court held:

"In our judgment the trial judge was right in deciding that the words in question were incapable of bearing or of being understood to bear the two meanings alleged and in concluding that, in fact, in their natural and ordinary meaning, they were not defamatory of the [Workers' Party].

Now, the fact is there is not a word of these judgments anywhere in the letter of appeal. No mention is also made of the real issues canvassed at the hearings. Instead, the respondent has wrongly stated in paragraph 4 of the letter that Mr. Tay's statement at the rally was completely untrue. He was also not entitled to say in the said paragraph that Mr. Tay did not seek to prove in the court that his statement was true. At the lowest, these statements are factually inaccurate. But, by suppressing the true issues, these statements have distorted the issues that were before the courts. They are therefore untruthful statements of facts. It follows that the comments made on them cannot be fair comments.

The sting is in the use of the word "however", made worse by the words "but ... also" in paragraph 5 of the letter. Mr. Karpal Singh contends that by no stretch of the imagination can one draw the inference that by the use of the word "however" a scurrilous attack has been made on the trial Judge and the Judiciary in general. I reject this submission because there is no need for me to draw any inference. I give the word "however" its natural and ordinary meaning. In the context it is used it means "in spite of" or "nevertheless". The words "but ... also" in the sentence, "The Party appealed to the Court of Appeal but the appeal was also dismissed ..." means "in addition to" or "likewise". Taken together, paragraphs 4 and 5 state that Mr. Tay's statement did not seek to prove in the High Court that his statement was true, that in spite of it the High Court dismissed the case, and that, in addition to it the Court of Appeal dismissed it. The imputations are clear. The learned Attorney-General has dealt with them fully. I adopt them here. Accordingly, I hold that

in the letter of appeal are matters calculated to bring the Judiciary in Singapore into contempt.

There is another aspect to this contempt. It also relates to the gravity of the offence. The question I ask is: Why did the respondent not state the true issues canvassed at the hearings and the decisions given on them. One would have thought that it would have been easy enough for those responsible for the drafting of the letter to have done so and kept the appeal "as simple as possible so that it would be readily understood". Again, the answer is in the respondent's affidavit. He has said that it was made abundantly clear to the Party that the public had to be told the facts put in paragraphs 4 and 5 of the letter for otherwise members of the public would be reluctant to respond to the appeal. Herein lies the mischief wrought by the respondent. He knew that if the true facts were told the appeal to the public for donations to the Party will be a flop. Undoubtedly therefore the letter of appeal was made and published at the expense of lowering the authority of the courts.

Finally, I have in mind that the letter of appeal must be considered as a whole. In the letter, besides the costs due to Mr. Tay and the Attorney-General, there is an appeal for funds to pay other sundry creditors of the Party. The Party also wants to help the Secretary-General to pay the damages and costs awarded against him in the action brought by the Prime Minister. The respondent makes out that there is a political urgency in all this. In making the urgent appeal for help there is the shocking statement that there is no parliamentary democracy in Singapore and there is a call for support to establish it. It is in this setting that I have considered paragraphs 4 and 5 of the letter. In my view it is bad enough that the letter of appeal imputes that the Workers' Party had been unfairly treated by the courts. What is objectionable in the highest degree here is that the respondent has drawn the courts into the political arena and used them to further the Party's political ends. It is this conduct of the respondent that is to be deplored and condemned.

There remains for me to consider penalty. "The punishment is inflicted, not for the purpose of protecting either the court as a whole or the individual judges of the court from a repetition of the attack, but of protecting the public, and especially those who either voluntarily or by compulsion are subject to the jurisdiction of the court, from the mischief they will incur if the authority of the tribunal is undermined or impaired." (See: *Halsbury's* Laws of England, Fourth Edition, Volume 9, paragraph 27 page 21.)

I have dealt with the seriousness of the contempt. There has been no retraction. It is not submitted by Mr. Karpal Singh that the act of the Party of having caused the letter of appeal printed in the Party's newspaper to be blacked out was a retraction. There is also no apology from the respondent. In these circumstances the question as to what penalty I should impose is a difficult one. I have before me the judgment of Dixon J. in *R.* v. *Dunbabin & Anor.*[11] which I respectfully adopt. The court "should fix a penalty adequate to make it abundantly clear that such publications will be repressed. It should, at the same time, make it clear that it has not the least intention of repressing any criticism which may be made on the court and its doings and the law it administers if that criticism is fair and honest and is not directed at lowering the authority of the court ... It is the reconciliation of those two principles that involves the difficulty. I think that, if a repetition of the kind of imputations made in the present case were allowed, public confidence in [out Courts] would in the end be undermined. I think the court should impose a penalty which affords a definite indication of its view that the publication of such matters as this will not be allowed." I have also sought guidance from *Pang Cheng Lian's case.* There the learned Chief Justice found the contempt of court to be of "the most serious description". But in favour of those respondents who were before the court, it must be said that they did not contend that they were not in contempt. They expressed their regrets and made their apologies. The learned Chief Justice imposed fines on them.

The penalty for contempt of court can be either imprisonment or fine. Having anxiously considered the matter, I have decided to impose the lesser penalty. The order I make is that the respondent pay a fine of $1,500. The fine is to be paid within seven days, if not, an order of committal will be issued. The respondent will pay the taxed costs to the Attorney-General.

Order accordingly.

Solicitors: *M.P.D. Nair & Co.*